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Thursday, December 27, 2012

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1 - EPA Administrator Jackson announces resignation
AP, 12/27/2012
http://bit.ly/12Rpq3o

Summary: West Nile deaths were mounting quickly this summer as mosquitoes spread the virus across the country. The situation was especially dire in Texas, where some authorities resorted to aerial spraying for the first time in decades to curb what became one of the worst such outbreaks in U.S. history. Nationally, more than 240 people died from the mosquito-borne illness -- about a third of them in Texas. Now with the mosquito population decimated by the cooler weather, health experts have turned their attention to learning lessons from the latest round of deadly cases. Federal health authorities are collecting data and examining potential factors, while Dallas County -- the epicenter of the outbreak -- has begun year-round mosquito surveillance and testing. What remains unclear is whether experts will be able to shed light on what caused the outbreak, why parts of Texas were so severely affected and whether they can forecast the next major surge in the illness.

2 - Health officials looking for lessons from summer's West Nile outbreak
Fort Worth Star-Telegram, 12/26/2012
http://bit.ly/12RqhkF

Summary: West Nile deaths were mounting quickly this summer as mosquitoes spread the virus across the country. The situation was especially dire in Texas, where some authorities resorted to aerial spraying for the first time in decades to curb what became one of the worst such outbreaks in U.S. history. Nationally, more than 240 people died from the mosquito-borne illness -- about a third of them in Texas. Now with the mosquito population decimated by the cooler weather, health experts have turned their attention to learning lessons from the latest round of deadly cases. Federal health authorities are collecting data and examining potential factors, while Dallas County -- the epicenter of the outbreak -- has begun year-round mosquito surveillance and testing. What remains unclear is whether experts will be able to shed light on what caused the outbreak, why parts of Texas were so severely affected and whether they can forecast the next major surge in the illness.

3 - Dallas County grand jury indicts Columbia Packing, executives in Trinity pig-blood dumping case
Dallas Morning News, 12/26/2012
http://dallasne.ws/12RqBQj

Summary: A meatpacking company accused of dumping pigs' blood into the Trinity River could be fined up to $1.5 million and its executives sent to prison if convicted of new pollution and evidence-tampering charges. A grand jury returned 18 indictments Wednesday against Columbia Packing Co. and two vice presidents.

4 - Dallas slaughterhouse faces waste-dumping charges
Houston Chronicle, 12/27/2012
http://bit.ly/12RqFzo

Summary: A city slaughterhouse and two officials have been indicted after being accused of flushing pig's blood into a creek feeding into the Trinity River. The grand jury returned a total of 18 indictments against Columbia Packing and

two officials, Joseph Carl Ondrusek and Donny Russell Ondrusek. Prosecutors say investigators from several agencies saw blood and other waste from the processing of pigs being dumped into Cedar Creek, which feeds into the Trinity. Columbia officials have admitted the plant spilled contaminants, but said it was by accident. Columbia Packing and Joseph Ondrusek are charged with water pollution with water pollution. Both Ondruseks and the company are charged with tampering with evidence. An attorney for Columbia Packing did not immediately return a phone message.

5 - EPA updates bacteria rule
Greenwire, 12/21/2012
http://bit.ly/12RqKmR

Summary: U.S. EPA yesterday updated its rule for monitoring bacteria in drinking water systems, including setting a limit for E. coli. EPA's total coliform rule sets goals and limits for the bacteria in drinking water, as well as a two-tiered monitoring system. Coliform monitoring is used to detect a range of sanitation problems in water systems, such as fecal matter or dead animals. The rule has not been updated since 1989, and the revisions were delayed for nearly half a decade. The updated rule takes effect April 1, 2016. Public drinking water systems will have to notify the public if a test exceeds the maximum contaminant level for E. coli in drinking water, under the updated rule. If E. coli or other indications of drinking water contamination are detected at a high level, drinking water facilities will have to assess the system and fix the sources of contamination, according to EPA.

6 - EPA Offers Broader Tenant Liability Relief At Clean Energy Brownfields
Inside EPA, 12/26/2012
http://bit.ly/12RqRyB

Summary: EPA is broadening liability protections for tenants leasing property on brownfields or other contaminated properties, responding to liability concerns from developers interested in participating in an EPA initiative to place renewable energy projects on potentially contaminated land. A new guidance from EPA's waste and enforcement offices further extends a measure passed in a 2002 brownfields law aimed at protecting bona fide prospective purchasers (BFPPs) from cleanup liability at contaminated sites, allowing tenants to qualify for BFPP protections even if the property owner is not a BFPP. A 2009 BFPP guidance did not address liability protections for all lessees.

7 - Environmentalists Likely To Sue Over EPA Final Revised Cement Air Rules
Inside EPA, 12/21/2012
http://bit.ly/12RqVhX

Summary: Environmentalists are likely to sue EPA over its Dec. 21 final regulation revising emissions limits for the cement sector because the rules largely adopt weaker limits and extended compliance deadlines sought by industry, changes critics warn will create more air toxics and criteria pollutant emissions that pose significant risks to public health. “By EPA's own numbers, that delay will cause between 1,920 and 5,000 Americans to die prematurely from exposure to cement plants' soot pollution. [The rules] will also allow cement plants to pump approximately 33,000 additional pounds of mercury into the environment,” one environmentalist says, citing the agency's data. EPA had faced a Dec. 20 consent decree deadline to issue the rules, which revise its national emission standards for hazardous air pollutants (NESHAP) air toxics limits and new source performance standards (NSPS) criteria pollutant controls for the sector. The rules address a cement sector push for reconsideration of the NESHAP and NSPS as set in 2010, in addition to a federal appeals court ruling partly remanding the 2010 rulemaking to EPA.

8 - Temple-Inland faces federal misdemeanor charges for 2011 Bogalusa paper mill spill in the Pearl River
New Orleans Times-Picayune, 12/26/2012
http://bit.ly/12Rr3xZ

Summary: The Justice Department has filed two criminal misdemeanor charges against Temple-Inland, the former owner of a paper mill in Bogalusa, for violating federal environmental laws during a five-day spill of pollutants from the company's paper plant into the Pearl River in August 2011. A bill of information filed in U.S. District Court in New Orleans on Dec. 20 says a "liquor" produced during the processing of pulpwood into paper pulp at the Bogalusa plant was discharged into the Pearl River, resulting in the death of thousands of fish.

9 - Christensen Ranch's Uranium Mining Throws Safe Drinking Water Act Exemptions Into The Spotlight
The Huffington Post, 12/26/2012
http://huff.to/12RrloG

Summary: On a lonely stretch at the edge of the Great Plains, rolling grassland presses up against a crowning escarpment called the Pumpkin Buttes. The land appears bountiful, but it is stingy, straining to produce enough sustenance for the herds of cattle and sheep on its arid prairies. "It's a tough way to make a living," said John Christensen, whose family has worked this private expanse, called Christensen Ranch, for more than a century. Christensen has made ends meet by allowing prospectors to tap into minerals and oil and gas beneath his bucolic hills. But from the start, it has been a Faustian bargain. As dry as this land may be, underground, vast reservoirs hold billions of gallons of water suitable for drinking, according to the U.S. Environmental Protection Agency. Yet every day injection wells pump more than 200,000 gallons of toxic and radioactive waste from uranium mining into Christensen's aquifers.

EPA Administrator Jackson announces resignation

Posted: Dec 27, 2012 9:05 AM CST
Updated: Dec 27, 2012 9:15 AM CST

By KEVIN FREKING
Associated Press

WASHINGTON (AP) - The Obama administration's chief environmental watchdog, EPA Administrator Lisa Jackson, is stepping down after a nearly four-year tenure marked by high-profile brawls over global warming pollution, the Keystone XL oil pipeline, new controls on coal-fired plants and several other hot-button issues that affect the nation's economy and people's health.

Jackson, the agency's first black administrator, constantly found herself caught between administration pledges to solve controversial environmental problems and steady resistance from Republicans and industrial groups who complained that the agency's rules destroyed jobs and made it harder for American companies to compete internationally.

The GOP chairman of the House Energy and Commerce Committee, Rep. Fred Upton, said last year that Jackson would need her own parking spot at the Capitol because he planned to bring her in so frequently for questioning. Republican presidential nominee Mitt Romney called for her firing, a stance that had little downside during the GOP primary.

Jackson, 50, a chemical engineer by training, did not point to any particular reason for her departure. Historically, Cabinet members looking to move on will leave at the beginning of a president's second term.

"I will leave the EPA confident the ship is sailing in the right direction, and ready in my own life for new challenges, time with my family and new opportunities to make a difference," she said in a statement. Jackson gave no exact date for her departure, but will leave after Obama's State of the Union address in late January.

In a separate statement, Obama said Jackson has been "an important part of my team." He thanked her for serving and praised her "unwavering commitment" to the public's health.

"Under her leadership, the EPA has taken sensible and important steps to protect the air we breathe and the water we drink, including implementing the first national standard for harmful mercury pollution, taking important action to combat climate change under the Clean Air Act and playing a key role in establishing historic fuel economy standards that will save the average American family thousands of dollars at the pump, while also slashing carbon pollution."

Environmental groups had high expectations for the Obama administration after eight years of President George W. Bush, a Texas oilman who rebuffed the agency's scientists and refused to take action on climate change. Jackson came into office promising a more active EPA.

But she soon learned that changes would not occur as quickly as she had hoped. Jackson watched as a Democratic-led effort to reduce global warming emissions passed the House in 2009 but was abandoned by the Senate as economic concerns became the priority. The concept behind the bill, referred to as cap-and-trade, would have set up a system in which power companies bought and sold pollution rights.

"That's a revolutionary message for our country," Jackson said at a Paris conference a few months after taking the job.

Jackson experienced another big setback last year when the administration scrubbed a clean-air regulation aimed at reducing health-threatening smog. Republican lawmakers had been hammering the president over the proposed rule, accusing his administration of making it harder for companies to create jobs.

She also vowed to better control toxic coal ash after a massive spill in Tennessee, but that regulation has yet to be finalized more than four years after the spill.

Jackson had some victories, too. During her tenure, the administration finalized a new rule doubling fuel efficiency standards for cars and light trucks. The requirements will be phased in over 13 years and eventually require all new vehicles to average 54.5 mpg, up from 28.6 mpg at the end of last year.

She shepherded another rule that forces power plants to control mercury and other toxic pollutants for the first time. Previously, the nation's coal- and oil-fired power plants had been allowed to run without addressing their full environmental and public health costs.

Jackson also helped persuade the administration to table the controversial Keystone XL pipeline, which would have brought carbon-heavy tar sands oil from Canada to refineries in Texas.

House Republicans dedicated much of their time this past election year trying to rein in the EPA. They passed a bill seeking to thwart regulation of the coal industry and quash the stricter fuel efficiency standards. In the end, though, the bill made no headway in the Senate. It served mostly as election-year fodder that appeared to have little impact on the presidential election.

Star-Telegram

Health officials looking for lessons from summer's West Nile outbreak

Posted Wednesday, Dec. 26, 2012

BY JAMIE STENGLE
The Associated Press

DALLAS -- West Nile deaths were mounting quickly this summer as mosquitoes spread the virus across the country. The situation was especially dire in Texas, where some authorities resorted to aerial spraying for the first time in decades to curb what became one of the worst such outbreaks in U.S. history.

Nationally, more than 240 people died from the mosquito-borne illness -- about a third of them in Texas.

Now with the mosquito population decimated by the cooler weather, health experts have turned their attention to learning lessons from the latest round of deadly cases. Federal health authorities are collecting data and examining potential factors, while Dallas County -- the epicenter of the outbreak -- has begun year-round mosquito surveillance and testing.

What remains unclear is whether experts will be able to shed light on what caused the outbreak, why parts of Texas were so severely affected and whether they can forecast the next major surge in the illness.

"I don't think that we're ever going to totally be able to sort it out," said Dr. Lyle Petersen of the Centers for Disease Control and Prevention. "For one reason, the ecology in the United States is extremely varied, so a factor that may affect an outbreak in Colorado may be different than a factor that causes an outbreak in Louisiana. The conditions in an urban area may be different than a suburban area."

West Nile virus is believed to have first appeared in the U.S. in 1999 in the New York City area and then gradually spread across the country. Mosquitoes get the virus from feeding on infected birds and then spread it to people they bite. Most people infected show no symptoms, but the most severe form of the disease, called neuroinvasive, can cause a coma, convulsions, muscle weakness, paralysis and death.

The Texas Department of State Health Services reported more than 835 neuroinvasive cases this year and 86 deaths, led by Dallas County's 18 fatalities. In Tarrant County, eleven deaths were reported from the virus, according to Tarrant County Public Health. Tarrant County health officials documented 275 cases of West Nile virus, 175 cases of West Nile fever and 100 cases of West Nile virus neuroinvasive disease.

The national death toll approached historic numbers from 2002, when 284 people died from the disease.

Petersen said the CDC is trying to determine what caused the latest outbreak by looking at factors such as heat, rainfall and the number of migrating birds that transmit the virus to mosquitoes. The agency is also researching the genetics of the virus to see if it mutated, but that doesn't seem to have happened.

Petersen added that while a warm spring with ample rainfall in North Texas was likely a factor, it's not known exactly what caused so many cases in the area.

"Probably, there was just the right combination of warmer weather and enough rainfall and probably a good dose of bad luck as well," Petersen said. "These outbreaks are subject to a fair amount of random variation."

The situation became so severe in North Texas that the state paid for aerial spraying in areas of Dallas County and nearby Denton County. Dallas County had not conducted such an operation since 1966 when encephalitis was blamed for more than a dozen deaths.

The county began spraying from trucks with the first positive mosquito test in June and then added aerial spraying in August when it became apparent there were more areas with infected mosquitoes than could be covered with spray trucks, Dallas County Judge Clay Jenkins said.

"If you look at this outbreak, it came upon us very suddenly," Jenkins said. "We might have the same situation in the future where by the time people know there is a risk out there, dozens of people have already been infected."

Public health officials say they will begin public information campaigns earlier next year, advising residents to apply insect repellent, wear long sleeves and long pants when outside, stay indoors from dusk to dawn and drain standing water on their property.

dallasnews.com
The Dallas Morning News

Dallas County grand jury indicts Columbia Packing, executives in Trinity pig-blood dumping case

By AVI SELK
Staff Writer
aselk@dallasnews.com

Published: 26 December 2012 11:16 PM

A meatpacking company accused of dumping pigs' blood into the Trinity River could be fined up to $1.5 million and its executives sent to prison if convicted of new pollution and evidence-tampering charges.

A grand jury returned 18 indictments Wednesday against Columbia Packing Co. and two vice presidents, escalating months of legal disputes and community outrage into a criminal matter.

"It's unfortunate it has come to this," said Dallas City Council member Dwaine Caraway, a fierce critic of Columbia since blood was discovered flowing from its east Oak Cliff slaughterhouse a year ago. "But at the same token, the community has had to endure for 50 years-plus the stench that was coming from that area."

A spokeswoman for the company could not be reached for comment.

Wednesday's charges follow a local, state and federal investigation stemming from a tipster's photos of a red stream flowing into a creek from the 80-year-old facility, which sits just south of the Trinity at Cedar Crest Boulevard and East 11th Street.

Authorities raided the plant in January. City officials returned a month later and discovered what they said was a hidden pipe used to bypass a sewer monitoring device.

Columbia officials acknowledged that the plant flushed blood and other waste into the creek, but they said it was accidental. The company's president, Joe Ondrusek Sr., accused the city of demonizing Columbia.

In April, officials revoked the plant's occupancy permit, preventing it from reopening. Days after that, Columbia sued the city.

The Dallas County district attorney's office released few details about the charges, but it said the yearlong investigation was carried out by Dallas County Health and Human Services, Texas Parks and Wildlife, the Texas Commission on Environmental Quality and the Environmental Protection Agency.

The company faces six charges of releasing industrial waste into the creek — one for each of six incidents in the month before the January raid. Each charge carries a maximum fine of $250,000.

Columbia is also charged with two counts of tampering with evidence to impede wastewater tests, stemming from incidents in early 2010 and 2011. It is unclear whether those charges are related to the pipe that was discovered, but each carries a maximum fine of $20,000.

Joseph Ondrusek Jr., the president's 39-year-old son, faces the same eight charges as the company, while his cousin Donny Ondrusek is charged in only the evidence-tampering incidents.

The men, both vice presidents, could face fines and at least two years in prison if convicted of evidence tampering.

Joseph Ondrusek Jr.'s maximum sentences if convicted of all his charges add up to 50 years in prison.

Staff writer Robert Wilonsky contributed to this report.

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Dallas slaughterhouse faces waste-dumping charges

| December 27, 2012 | Updated: December 27, 2012 5:43am

DALLAS (AP) — A city slaughterhouse and two officials have been indicted after being accused of flushing pig's blood into a creek feeding into the Trinity River.

The grand jury returned a total of 18 indictments against Columbia Packing and two officials, **Joseph Carl Ondrusek** and **Donny Russell Ondrusek**.

Prosecutors say investigators from several agencies saw blood and other waste from the processing of pigs being dumped into Cedar Creek, which feeds into the Trinity.

Columbia officials have admitted the plant spilled contaminants, but said it was by accident.

Columbia Packing and Joseph Ondrusek are charged with water pollution with water pollution. Both Ondruseks and the company are charged with tampering with evidence.

An attorney for Columbia Packing did not immediately return a phone message.

THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

24. DRINKING WATER:

EPA updates bacteria rule

Annie Snider, E&E reporter
Published: Friday, December 21, 2012

U.S. EPA yesterday updated its rule for monitoring bacteria in drinking water systems, including setting a limit for E. coli.

EPA's total coliform rule sets goals and limits for the bacteria in drinking water, as well as a two-tiered monitoring system. Coliform monitoring is used to detect a range of sanitation problems in water systems, such as fecal matter or dead animals.

The rule has not been updated since 1989, and the revisions were delayed for nearly half a decade. The updated rule takes effect April 1, 2016.

Public drinking water systems will have to notify the public if a test exceeds the maximum contaminant level for E. coli in drinking water, under the updated rule. If E. coli or other indications of drinking water contamination are detected at a high level, drinking water facilities will have to assess the system and fix the sources of contamination, according to EPA.

Mae Wu of the Natural Resources Defense Council, who served on a federal advisory panel during the rule's development, told *Greenwire* earlier this year that the revisions will be a "huge" change.

Previously, she said, a water system would simply receive a violation notice, creating little incentive to address the problem.

Under the new rule, if a system identified the problem -- for instance, a bird that had flown through a broken grate and died -- and fixed the source of the problem, such as by repairing the grate, it would avoid the penalty.

High-risk drinking water systems with a history of sanitation problems will have to perform more frequent monitoring under the revised rule, while those with a good record will be able to go on a reduced monitoring schedule.

Click here to read more on the total coliform rule.

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Daily News

EPA Offers Broader Tenant Liability Relief At Clean Energy Brownfields

Posted: December 26, 2012

EPA is broadening liability protections for tenants leasing property on brownfields or other contaminated properties, responding to liability concerns from developers interested in participating in an EPA initiative to place renewable energy projects on potentially contaminated land.

A new guidance from EPA's waste and enforcement offices further extends a measure passed in a 2002 brownfields law aimed at protecting bona fide prospective purchasers (BFPPs) from cleanup liability at contaminated sites, allowing tenants to qualify for BFPP protections even if the property owner is not a BFPP. A 2009 BFPP guidance did not address liability protections for all lessees.

But an attorney closely following BFPP issues says the new guidance places a greater burden on tenants to meet BFPP criteria, especially proving that all disposal of hazardous substances occurred prior to the execution of the lease. The issue of hazardous substance disposal and its effect on BFPP status is a key issue in a much-watched federal district court case, *PCS Nitrogen Inc. v. Ashley II of Charleston LLC, et al.*, that is now under review by the U.S. Court of Appeals for the 4th Circuit. The case is expected to be the first appellate court to rule on the issue.

The impetus for the guidance is linked to EPA's push to locate renewable energy development projects on potentially contaminated properties under its Re-Powering America's Land Initiative, but the guidance applies across all industries, EPA notes in a transmittal letter accompanying the guidance. Issues over tenant liability in general arose five years ago, and at the time EPA officials said guidance was one option the agency was considering to alleviate confusion over the liability of tenants who rent from landowners at brownfields sites. Since then, EPA issued a guidance in 2009 to address the issue, and these revisions build on that guidance.

"EPA heard concerns about federal enforcement under CERCLA being an issue for prospective tenants looking to redevelop contaminated sites particularly in the context of renewable energy projects," an EPA spokeswoman says. "While this issue was brought to the forefront through EPA's RE-Powering America's Land Initiative, EPA developed a broad policy that will help support redevelopment opportunities across all sectors."

EPA's enforcement head Cynthia Giles and waste chief Mathy Stanislaus Dec. 5 signed updated guidance to regional offices putting in place the protections. The guidance, contained in a memo titled "Revised Enforcement Guidance Regarding the Treatment of Tenants Under the CERCLA Bona Fide Prospective Purchaser Provision," extends liability protections found in section 107(r) of the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA).

EPA has also issued three new model comfort/status letters for lessees involved in renewable energy development on contaminated sites. It says, however, that these should be used in limited circumstances and dependent on the availability of EPA regional office resources.

Under the 2002 Brownfields Amendments, BFPPs are exempt from CERCLA liability if they exercised due diligence before buying contaminated or formerly contaminated property and took other steps. Section 222(a) of the law defines a BFPP as "a person (or tenant of a person) that acquires ownership of a facility after the date of the enactment of this paragraph." But under that law, it was unclear whether BFPP status automatically transfers to a tenant at a contaminated site, and industry lawyers raised questions over what happens to tenants if a BFPP loses that status, for instance.

EPA attempted to clarify those questions in the 2009 guidance and now has extended the BFPP protections to tenants who were not

covered under the 2009 policy. The revised guidance broadens liability protections to tenants where the landowner is not a BFPP and the tenant does not have sufficient indicia of ownership of the property, but the tenant nonetheless meets BFPP criteria.

Liability Protections

Under the new guidance, EPA provides the liability protections through the use of enforcement discretion aimed at treating certain tenants as BFPPs under CERCLA, although the agency says it may decline to exercise enforcement discretion in situations where the lease is designed to allow a landlord or tenant to avoid its CERCLA liability or the tenant is liable for reasons outside its tenant status, such as for arranging for hazardous substance disposal at the site.

While the execution of a lease does not automatically make a tenant liable as an owner or operator under CERCLA, the guidance says "EPA recognizes the uncertainty regarding the potential liability of tenants under CERCLA and the potential applicability of the BFPP provision in light of the explicit reference to tenants in CERCLA [section] 101(40)," the section that defines BFPPs and criteria they must meet.

EPA describes different ways in which a tenant can obtain and maintain BFPP status. These include a tenant deriving BFPP status from a landowner who satisfies the BFPP criteria, a tenant meeting BFPP criteria in cases where the landowner once had but then lost its BFPP status, and situations where the owner was never a BFPP but the tenant meets BFPP requirements.

To meet the BFPP criteria in situations where the owner was never a BFPP, a tenant must: provide assurance that all disposal of hazardous substances at the site occurred prior to lease execution; conduct all appropriate inquiry (AAI) prior to execution of the lease; provide legally required notices; undertake "reasonable steps" with respect to hazardous substance releases; provide cooperation, assistance and access at the site; comply with land use restrictions and institutional controls; comply with information requests and administrative subpoenas; have no potential liability for response costs at the facility nor have "affiliated" with such persons other than through the lease with the owner; and taken no actions to impede any response actions at the site or natural resource restoration, the guidance says.

The guidance reiterates generally the same requirements as the 2009 guidance in addressing situations where the landowner already has BFPP status and the tenant derives its BFPP status from that, or cases where the tenant wants to maintain its BFPP status after the landowner lost that status.

To obtain BFPP status, a tenant can derive BFPP status from the owner as long as the tenant does not impede the cleanup remedy or natural resource restoration, the guidance says. The tenant, however, cannot continue to have derivative BFPP status if the owner loses its BFPP status.

But in situations where the owner loses BFPP status, tenants can retain the BFPP protections if they meet the same BFPP provisions under CERCLA prescribed for innocent prospective purchasers and for tenants where the landowner never was a BFPP, except for the requirement to conduct AAI into previous ownership and uses of the facility. This is because AAI has already been conducted by the owner in such cases, EPA explains in a footnote.

However, the attorney following BFPP issues says language changes in the section dealing with tenants where the owner has lost BFPP status will make it harder for tenants to qualify for the protections.

Under the 2009 guidance, one criteria was that the tenant "does not dispose of hazardous substances on the property," but under the revised guidance, this is changed to say that "all disposal of hazardous substances at the facility [must have] occurred prior to execution of the lease."

"That's a significantly greater burden on a tenant than the 2009 document," the attorney says, noting it is harder to prove. But the source says that the 2009 language on this did not have any basis in statute, while the 2012 language mirrors the statute.

The question of disposal is one of the key issues in the *Ashley II* case, where the district court cited developer Ashley's failure to prove that no disposals of hazardous substances occurred on the site after its acquisition of property as one criterion it failed to meet to gain BFPP status.

Ashley, which was an owner rather than a tenant, is testing the waters on this criterion, among others, arguing to the appellate court that the trial court wrongly applied a "heightened standard for common CERCLA terms and definitions," including that for "disposal," abrogating the purpose of the Brownfields Amendments.

EPA Widens Exemption

On the requirement that tenants, as a BFPP, have "no affiliation" with any other liable party at the site, EPA is effectively widening an

exemption for innocent land purchasers to also include tenants. While CERCLA already contains a "no affiliation" exception for parties acquiring title to a property from a liable party, the guidance notes leases would fail to fall within the scope of that exception.

"For purposes of this guidance, however, the EPA intends to exercise its enforcement discretion on a site-specific basis by not treating the existence of a lease between the tenant and the owner as a prohibited affiliation," the guidance says.

The attorney following these issues says the enforcement discretion decision on no affiliation is not binding in court, and notes that issue comes back to *Ashley II*, where the court found that Ashley's indemnification of liable parties, who were sellers, from environmental liability at the site violated the affiliation portion of the defense. Ashley, however, argued in the appeal that its only affiliation was a contractual relationship to convey the property title. The attorney says any tenant leasing contaminated property is similarly going to want an indemnification agreement from the landlord.

EPA says the statutory liability protections it cites in the guidance are self-implementing and the agency generally will not determine BFPP status on a site-specific basis.

An EPA spokeswoman says the agency currently has no other plans at this point in time to issue any other BFPP-related guidance.

Related News: Energy Waste

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Daily News

Environmentalists Likely To Sue Over EPA Final Revised Cement Air Rules

Posted: December 21, 2012

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“By EPA's own numbers, that delay will cause between 1,920 and 5,000 Americans to die prematurely from exposure to cement plants' soot pollution. [The rules] will also allow cement plants to pump approximately 33,000 additional pounds of mercury into the environment,” one environmentalist says, citing the agency's data.

EPA had faced a Dec. 20 consent decree deadline to issue the rules, which revise its national emission standards for hazardous air pollutants (NESHAP) air toxics limits and new source performance standards (NSPS) criteria pollutant controls for the sector. The rules address a cement sector push for reconsideration of the NESHAP and NSPS as set in 2010, in addition to a federal appeals court ruling partly remanding the 2010 rulemaking to EPA.

In June, EPA proposed to revise the rules by weakening the particulate matter (PM) limit for existing kilns from 0.04 pounds per ton (lbs/t) of clinker to 0.07 lbs/t clinker and the limit for new kilns from 0.01 lbs/t clinker to 0.02 lbs/t clinker. EPA also proposed to extend the compliance deadline for the air toxics standards from 2013 to Sept. 9, 2015. Both measures were sought by the cement sector, which argued the 2010 rules were too stringent.

Environmental groups including Earthjustice and the Natural Resources Defense Council filed comments criticizing the proposal as unlawfully weak under the Clean Air Act, and opposing the changes.

But EPA in the final rules largely adopts the softer rules sought by industry, weakening the emissions limits and extending the compliance deadlines until September 2015. EPA, as proposed, softens the 2010 emissions limits for PM. The PM limit for existing kilns rises from 0.04 lbs/t of clinker, on a 30-day rolling average, to 0.07 lbs/t of clinker. The limit for new sources rises from 0.01 lbs/t of clinker, on a 30-day rolling average, to 0.02 lbs/t of clinker.

EPA in the new rules switches to a system of compliance based on mandatory annual smokestack testing, and continuous emissions monitoring that allows industry greater flexibility than the 2010 rules. EPA says the lax PM limit and changes to monitoring are “based on new real-world technical information that indicated PM emissions could not be reliably measured using the monitoring requirements EPA had required in the 2010 rule[s].”

For total hydrocarbons, the limit remains 24 parts per million by volume (ppmv), averaged over 30 days, for both existing and new sources. Hydrochloric acid limits remain the same, at 3 ppmv averaged over 30 days, for both new and existing plants. The final rules allow an alternative compliance option for the total hydrocarbon limits, under which plants would comply instead with an organic air toxics limit of 12 ppmv. This limit would be enforced via a three-run stack test every 30 months. The stack test results' average would be used to determine a “kiln-specific operating limit,” and plants would require continuous emissions monitoring to demonstrate compliance with this limit.

The revised rules allow cement kilns to choose from a list of work practice standards to control fugitive, or unplanned, emissions from clinker piles, as opposed to hard emissions limits. Overall, EPA says the final rules will save cement kilns $52 million in compliance costs compared with the 2010 versions.

The final rules also respond to an industry request to define new Portland cement sources subject to stricter air limits than existing plants as those built after May 6, 2009. The proposal would have captured more facilities under the stricter limits by applying them to

any cement sources starting in June 16, 2008.

The agency Dec. 21 also released a package of combustion air rules that determines which cement plants are defined as incinerators, and hence can change the calculation of emission limits for cement plants, which are based on the performance of the top 12 percent of cement plants, classed by environmental performance. While EPA largely weakened the combustion air rules, it is unclear whether those rules will face lawsuits.

Potential Legal Challenge

However, the revised cement rules are likely to prompt a lawsuit from environmental groups given their warnings in written comments that the proposed version was unlawful under the Clean Air Act.

The final rules weaken PM standards for cement plants and eliminate monitoring requirements that would have allowed the public to know cement plants' actual emissions levels, the environmentalist says.

A second environmentalist says, “EPA’s materials revealingly do not even discuss mortality benefits associated with the final cement standards, whereas they did in the original final standards,” suggesting that EPA is “embarrassed” to draw comparisons with the 2010 rules, which would save far more lives due to stricter air controls.

In contrast, Portland Cement Association (PCA) President Greg Scott in a Dec. 12 statement welcomed the rules, saying they “will provide PCA members, and the cement industry generally, the additional time needed for compliance with the revised standards. Such time is essential to properly complete the planning, engineering, permitting, testing and construction of the various new technologies that will be necessary to implement the revised standards.”

Scott added that the rules, while “still extremely challenging, are now realistic and achievable,” suggesting that the industry is unlikely to sue over the regulation. -- *Stuart Parker* (sparker@iwpnews.com)

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Temple-Inland faces federal misdemeanor charges for 2011 Bogalusa paper mill spill in the Pearl River

By Mark Schleifstein, NOLA.com | The Times-Picayune

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Print

The Justice Department has filed two criminal misdemeanor charges against Temple-Inland, the former owner of a paper mill in Bogalusa, for violating federal environmental laws during a five-day spill of pollutants from the company's paper plant into the Pearl River in August 2011. A bill of information filed in U.S. District Court in New Orleans on Dec. 20 says a "liquor" produced during the processing of pulpwood into paper pulp at the Bogalusa plant was discharged into the Pearl River, resulting in the death of thousands of fish.

The wastewater had a biological oxygen demand -- a measure of its ability to use up oxygen in the river -- of 116,000 pounds a day, which exceeded the plant's limit allowing a BOD of 35,610 pounds a day, and was a violation of its state permit limit under the federal Clean Water Act.

At least 1,000 of the fish killed during the spill were in the 36,000-acre Bogue Chitto National Wildlife Refuge about 25 miles south of the paper mill and represented an illegal "take" of wildlife in a refuge under the federal Refuge Act, according to the bill of information.

A negligent violation of the Clean Water Act can result in a fine of no more than $25,000 a day. Each violation of the Refuge Act is subject to a fine of up to $1,000.
Company officials have been summoned for an initial appearance and arraignment before U.S. Magistrate Judge Daniel Knowles III on January 31.

"We have been cooperating with the Department of Justice in its investigation. We were aware that the charges were going to be filed," said Thomas Ryan, a spokesman for International Paper, which now owns the Bogalusa paper mill. "We do not intend to contest the charges."

Soon after the spill, Temple-Inland officials announced that they were temporarily shutting down the mill, after predictive tests indicated the release would violate water quality standards.

Biologists with the state Department of Wildlife and Fisheries and responders with the state Department of Environmental Quality surveyed 45 miles of the Pearl from Richardson Landing below the mill to the entrance of the West Pearl River Navigation Canal. They found dead fish at all water levels, including paddlefish, American eels, catfish, bass, bluegill and shad. Local fishermen said they also found dead

Dead fish collect on the West Pearl River on Aug. 18, 2011, north of Crawford's Landing near Slidell. Temple-Inland, now part of International Paper, is facing federal misdemeanor charges that the company's release of polluting wastewater caused the fish kill.

Ramon Antonio Vargas / NOLA.com | The Times-Picayune

mussels, freshwater shrimp and sturgeon.

Temple-Inland merged with, and became a subsidiary of, International Paper in February as part of a $4.5 billion deal. In May, Louisiana Gov. Bobby Jindal and the Bogalusa mill's manager, Todd Crutcher, announced that International Paper was investing $44 million to modernize the plant, helping to retain 400 jobs.

"Temple Inland had already taken significant measures to ensure this never happens again, and under International Paper's leadership, the mill has continued to improve operations and environmental performance," Ryan said.

International Paper, the fifth owner of the Bogalusa mill during its 106-year history, now operates 10 facilities in Louisiana.

December 27, 2012
HUFF POST GREEN

Christensen Ranch's Uranium Mining Throws Safe Drinking Water Act Exemptions Into The Spotlight

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ProPublica's Abrahm Lustgarten reports:

GILLETTE, Wyo.— On a lonely stretch at the edge of the Great Plains, rolling grassland presses up against a crowning escarpment called the Pumpkin Buttes. The land appears bountiful, but it is stingy, straining to produce enough sustenance for the herds of cattle and sheep on its arid prairies.

"It's a tough way to make a living," said John Christensen, whose family has worked this private expanse, called Christensen Ranch, for more than a century.

Christensen has made ends meet by allowing prospectors to tap into minerals and oil and gas beneath his bucolic hills. But from the start, it has been a Faustian bargain.

As dry as this land may be, underground, vast reservoirs hold billions of gallons of water suitable for drinking, according to the U.S. Environmental Protection Agency. Yet every day injection wells pump more than 200,000 gallons of toxic and radioactive waste from uranium mining into Christensen's aquifers.

What is happening in this remote corner of Wyoming affects few people other than Christensen — at least for now.

But a roiling conflict between state and federal regulators over whether to allow more mining at Christensen Ranch— and the damage that comes with it—has pitted the feverish drive for domestic energy against the need to protect water resources for the future. The outcome could have far-reaching implications, setting a precedent for similar battles sparked by the resurgence of uranium mining in Texas, South Dakota, New Mexico and elsewhere.

Twenty-five years ago, the EPA and Wyoming officials agreed that polluting the water beneath Christensen Ranch was an acceptable price for producing energy there.

The Safe Drinking Water Act forbids injecting industrial waste into or above drinking water aquifers, but the EPA issued what are called aquifer exemptions that gave mine operators at the ranch permission to ignore the law. Over the last three decades, the agency has issued more than 1,500 such exemptions nationwide, allowing energy and mining companies to pollute portions of at least 100 drinking water aquifers.

When the EPA granted the exemptions for Christensen Ranch, its scientists believed that the reservoirs underlying the property were too deep to hold desirable water, and that even if they did, no one was likely to use it. They also believed the mine operators could contain and remediate pollution in the shallower rock layers where mining takes place.

Over time, shifting science and a changing climate have upended these assumptions, however. An epochal drought across the West has made water more precious and improved technology has made it economically viable to retrieve water from extraordinary depths, filter it and transport it.

"What does deep mean?" asked Mike Wireman, a hydrologist with the EPA who also works with the World Bank on global water supply issues. "There is a view out there that says if it's more than a few thousand feet deep we don't really care ... just go ahead and dump all that waste. There is an opposite view that says no, that is not sustainable water management policy."

Federal regulators also have become less certain that it is possible to clean up contamination from uranium mining. At Christensen Ranch and elsewhere, efforts to cleanse radioactive pollutants from drinking water aquifers near the surface have failed and uranium and its byproducts have sometimes migrated beyond containment zones, records show.

In 2007, when the Christensen Ranch mine operator proposed expanding its operations, bringing more injection wells online and more than tripling the amount of waste it was injecting into underground reservoirs, Wyoming officials eagerly gave their permission, but the EPA found itself at a crossroads.

If the agency did what Wyoming wanted, it could destroy water that someday could be necessary and undermine its ability to protect aquifers in other places. If it rejected the plan, the agency risked political and legal backlash from state officials and the energy industry.

The EPA declined interview requests from ProPublica for this story and did not respond to a lengthy set of questions submitted in writing. After learning that ProPublica contacted several EPA employees directly involved in the debate over Christensen Ranch, the agency instructed staffers not to discuss the matter without agency approval.

For the last five years, as regulators have vacillated over what to do, John Christensen has experienced a similar ambivalence.

His property is speckled with thousands of small, mysterious black boxes. From each dark cube, a mixture of chemicals is pumped into the ground to dissolve the ore and separate out the uranium so that it can be sucked back out and refined for nuclear fuel.

Horses graze behind a gate on a dirt road that winds across this 35,000-acre tract, 50 miles south of Gillette. Nearby, a small metal sign is strung to a cattle guard with chicken wire: "Caution. Radioactive Material."

Christensen still places a tenuous trust in the system that promises to keep his water safe and leave his ranch clean. He relies on the royalty income and believes the national pursuit of energy is important enough to warrant a few compromises.

Yet if he had it to do over again, he's not sure he would lease out the rights to put a uranium mine on Christensen Ranch.

"It's probably worthwhile for this generation," he said. "You just don't know about future generations."

* * *

John Christensen's grandfather, Fred, first allowed uranium exploration on the family's ranch in the 1950s.

Fred Christensen had come to Wyoming from Michigan as a homesteader in 1906, finding work as a ranch hand and settling on a small tract at the base of the northernmost Pumpkin Butte. The Christensens farmed sheep, selling their meat and their wool, and used the proceeds to buy up more land. Through marriage and business, the family amassed some 70,000 acres, coming to rank among the largest private landowners in the United States.

Yet droughts plagued the region, making agriculture difficult. Tapping into Wyoming's resource wealth, the Christensens staked claims on the property, selling mining and drilling rights to companies that helped transform the Powder River Basin into the energy basket of America.

Uranium was discovered underneath Christensen Ranch in 1973. In 1978, after the property had been divided between cousins, Westinghouse Electric launched the first large-scale uranium mine on John Christensen's portion.

Modern mining for the radioactive ore inevitably pollutes water.

To avoid digging big holes in the ground, operators inject a mixture of sodium bicarbonate, hydrogen peroxide and oxygen into the rock to separate out the minerals and bond to the uranium. Then, they vacuum out the uranium-laden fluids to make a fine powder called yellowcake. The process leaves a toxic mix of heavy metals and radioactive ions floating in the groundwater and generates millions of gallons of waste that need to be dumped deeper underground.

The federal Safe Drinking Water Act, implemented in the early 1980s as mining began in earnest on Christensen Ranch, posed a potential hurdle to such ventures because it prohibited disposal of waste in aquifers. But the law allowed regulators to exempt aquifers if they determined that water was too dirty to use, or buried too deep to be worth pumping to the surface, or unlikely to be needed.

In 1982, when Wyoming officials anticipated the need for an aquifer exemption at Christensen Ranch, the state's then-governor, Ed Herschler, wrote to urge EPA officials to streamline their review of such requests and not to delay energy projects or interfere with Wyoming regulators. Steven Durham, the EPA's regional administrator at the time, wrote back to assure the governor the EPA would not second guess state officials, and that he had adjusted the rules so that they "should assure a speedy finalization of any exemptions."

Wyoming environment officials issued the first permit exempting several deep groundwater aquifers on the ranch from environmental protection in 1988. It said the water was of relatively poor quality, and was too deep and too remote to be used for drinking. The permit did not address the possibility that usable aquifers could lie in even deeper rock layers beneath the site.

The EPA confirmed the state's exemptions and issued separate ones allowing the mine operator to contaminate the shallow layer of groundwater closest to the surface, where anyone who needed water — including John Christensen — was likely to go for it first.

Even as they gave their stamp of approval, EPA officials noted that the mine operator's application had not set precise boundaries for the depth or breadth of the exempted area. "The information contained in the submittal does not specifically delineate the area to be designated," the EPA's Denver chief administrator acknowledged in a letter to Wyoming regulators in August 1988.

Still, Christensen, who continued to run stock on his land, saw the pollution as an inconvenience, not a threat. He was assured that the mine operator could steer contaminants toward the center of the exemption zone by manipulating pressure underground. Monitoring wells surrounded the perimeter of the mining site like sentries, checking if pollutants were seeping past the border.

Drilling new water wells beyond the mine's boundary was expensive, but Christensen took comfort from rules obliging the mine operator to restore contaminated water within the exempted area to its original condition once mining was complete.

"That was our best quality water," Christensen said. "I've been given to believe that it is not sacrificed, that they will restore the groundwater quality."

The mining proceeded in fits and starts, stalling in 1982 with a collapse of the uranium market, picking up five years later, stopping again in 1990, and then restarting in 1993. Ownership of the facilities changed hands at least five times.

By 2000, mining activity seemed to be over for good, and restoration efforts geared up under the supervision of the Nuclear Regulatory

Commission.

The restoration wouldn't go entirely as planned.

* * *

In July 2004, contaminants were detected in one of the monitoring wells surrounding the mining facility at Christensen Ranch.

This wasn't that unusual, mining and regulatory officials say. Other excursions, as they are called, had occurred over the years. The monitoring wells are an early warning system, detecting benign chemicals long before more dangerous toxins can spread.

"It's sort of like a smoke detector," said Ron Linton, who oversees the licensing for Christensen Ranch for the Nuclear Regulatory Commission. "They will go back in and adjust their flow with their production practices within their ore zone to get those levels down."

But according to documents from the Wyoming Department of Environmental Quality, Cogema u2014 the company then handling the restoration effort u2014 could not fix the problem or identify its cause. The company tested water from the area and examined their injection wells for defects, but told state officials they believed the contaminants had occurred naturally and were not from the mine.

For six years, the contaminants continued to spread, disappearing for short periods as the restoration progressed only to reappear again, records show.

"This really shouldn't happen," said Glenn Mooney, a senior state geologist who oversaw the Christensen Ranch site for Wyoming from the late 1970s until last July.

Mooney observed that the concentration of contaminants at the boundary had leveled, but "showed no hint that they may drop," and warned that some of the chemicals found posed a considerable risk.

"The increase in uranium levels, a level over 70 times above the maximum contaminate limit for uranium, in a well that is located at the edge of the aquifer exemption boundary, is a major concern to WDEQ," he wrote in a 2010 letter.

Christensen said he was never told about the excursions beneath his property and that, as far as he knew, several of the minefields had been fully restored. He said he expected to use the shallow aquifer polluted by the mining as a source of drinking water in the future.

Restoration is the most important backstop against the risk that contaminants will spread from the mining site after the mining is finished. Polluted water is pumped from the ground, filtered using reverse osmosis, and then re-injected underground. The worst, most concentrated waste is disposed of in deeper waste wells.

Yet the Nuclear Regulatory Commission approved Cogema's restoration of minefields associated with Christensen Ranch even as the excursion remained unresolved.

The commission deemed nine mining fields there successfully "restored" even though records show that half of the contaminants in the aquifer, including the radioactive byproduct Radium 226, remained above their natural levels.

Studies by the NRC, the U.S. Geological Survey and private consultants have found that similar cleanups elsewhere have rarely been fully successful.

The Geological Survey's study of uranium restoration in Texas found that no sites had been completely restored to pre-mining levels, and the majority had elevated uranium when the restoration was finished. The 2008 NRC review concluded that each of 11 sites at three mines certified by the agency as "restored" had at least one important pollutant above baseline levels recorded before mining began. The report concluded that restoring water to baseline levels was "not attainable" for many of the most important contaminants, including uranium.

Some regulators and mining industry executives call attempts to fully restore aquifers at uranium sites idealistic. Such water was often contaminated with uranium before mining began, they contend.

"When you restore it... you bring each individual ion down to a level that is within the levels that occurred naturally," said Richard Clement, the chief executive of Powertech Uranium, which is currently applying for permits for a new mine in South Dakota. "It depends what you mean by 100 percent successful. Are people saying it is different than what it was? Yes it is. But is it worse? No."

Efforts to restore the groundwater at Christensen Ranch had other consequences. While the water was supposed to be filtered and re-injected, millions of gallons were removed and disposed of permanently as a result of the process, lowering the ranch's water table.

Water wells outside of the mine area that had routinely produced 10 gallons a minute struggled to produce a single quart, Christensen said. The water levels in the aquifer also dropped — in some places by 100 feet.

"They have always claimed that they could restore the groundwater," Christensen said. "The main concern is there isn't much water left when they get it to that quality. It never came back."

* * *

In 2007, as uranium commodities skyrocketed and a new mining boom began, Cogema applied to the Wyoming Department of Environmental Quality and the Nuclear Regulatory Commission for permits to restart and expand its operations at Christensen Ranch.

To do it, the company would need to use two additional deep injection wells, making four total, to dispose of waste produced from ongoing restoration efforts and absorb the byproducts of drying and refining yellowcake. The plan called for more than tripling the amount of waste the company could pump into the Lance aquifer, more than 3,000 feet under Christensen Ranch.

Wyoming had permitted the additional wells years earlier, which it can do under authority delegated to states by the EPA to enact the Safe Drinking Water Act. But Cogema's request required something more — a change to past exemptions — that only the EPA had the power to grant.

Earlier exemptions issued for Christensen Ranch had only indirectly addressed the deep aquifers underlying the Lance.

In November 2010, Wyoming officials asked the EPA to exempt every layer of water below the Lance, regardless of its quality or whether it was being used by the mine, and without additional study. The water quality at those depths was "not reliably known," they wrote. The EPA should apply the exemptions to all of the deep aquifers, they said, "whether or not they meet the definitions of 'underground sources of drinking water.'"

For the EPA, Wyoming's request opened up a morass of legal and environmental concerns.

In the eight years since the agency had approved the last exemption at the ranch, its scientists had grown increasingly convinced that the deep layers of aquifers beneath the property might contain one of the state's largest reserves of good water. One layer, the Madison, is described in a state assessment as "probably the most important high-yield aquifer in Wyoming" and supplies drinking water to the city of Gillette.

Some within the EPA worried that approving Wyoming's request would create a damaging precedent, several EPA employees told ProPublica. It would write off billions of gallons of water in perpetuity, stripping them of legal protections against pollution, even though they were not necessary to the mining process.

Also, arguments that nobody would ever pay to pull water from aquifers below Christensen Ranch seemed more tenuous as scarcity made every drop of clean water more valuable and changing technology made deeper resources economically viable.

"Where do we get that water?" asked Mark Williams, a hydrologist at the University of Colorado at Boulder who has received a National Science Foundation grant to look at energy and water issues. "Right now we want to get it from the near surface because it's cheaper. The question is, is that going to change in the future?"

If the EPA rejected Wyoming's request, it opened itself to other problems, however.

The EPA had granted exemptions allowing the two injection wells already operating at Christensen Ranch based on the notion that the aquifers below them did not qualify as sources of drinking water. If the agency reversed itself on this, it could make the existing mine operations illegal.

"I don't think that you could argue very strongly that it was the intent of the law to routinely use these exemptions to get around complying with the law," Wireman said.

"The law is very clear," he added, referring to the prohibition against allowing injection wells for toxic waste above aquifers. "That was done for a reason."

The process slowed to a crawl as federal officials from Denver to Washington considered the matter.

In December 2010, the EPA sent a letter to Wyoming's chief groundwater supervisor saying the agency saw no justification for granting new exemptions at Christensen Ranch and asked the state to make a stronger scientific argument.

The EPA also informed Wyoming regulators it planned to publish the exemption requests in the Federal Register, a move that would open them up for public comment and push back their potential approval date.

Infuriated, Wyoming officials approved the renewal permit on their own authority on Aug. 7, 2012, and decided the new injection wells did not need EPA permission because they were covered by past exemptions that could not be reversed.

"We were pretty disappointed with the amount of time it was taking to get a determination, and of course the operator was as well," Kevin Frederick, groundwater manager for the Wyoming Department of Environmental Quality, told ProPublica. "The delay... really kind of caused us to rethink what we were asking EPA to consider. We recognized that we were essentially issuing a permit that had already been approved."

Wyoming's top elected official punctuated the state's position on the case by complaining to EPA administrator Lisa Jackson about the agency's interference.

"Wyoming is the number one producer of uranium in the United States. The industry provides the nation with a reliable, secure source of domestic uranium," Gov. Matthew Mead wrote in a stern Aug. 29 letter. The EPA's review was having a "direct impact on operations, planning, investment and jobs. This has resulted in a standstill which has been the situation for far too long."

* * *

The problems and pressures the EPA is facing at Christensen Ranch are not unique.

With uranium mining booming, the agency has received a mounting number of requests for aquifer exemptions in recent years. So far, EPA records show, the agency has issued at least 40 exemptions for uranium mines across the country and is considering several more. Two mines are expanding operations near Christensen Ranch.

In several cases, the EPA has struggled to balance imposing water protections with accommodating the industry's needs.

In South Dakota, where Powertech Uranium is seeking permits for a new mine in the Black Hills, state regulations bar the deep injection

wells typically used to dispose of mining waste. The EPA is weighing whether to allow Powertech to use what's called a Class 5 well — a virtually unregulated and unmonitored shallow dumping system normally used for non-toxic waste — instead.

Powertech officials say they will voluntarily meet the EPA's toughest construction standards for injection wells and will treat waste before burying it to alleviate concerns about groundwater.

"It's not going around the process," said Clement, the company's CEO. "It's using the laws the way they were designed to be used."

Environmental groups say the EPA should not be letting mining companies write their own rules.

"It's disturbing that such a requirement would be so easy to get around," said Jeff Parsons, a senior attorney for the Western Mining Action Project, which is representing the Oglala Sioux in a challenge to stop the Powertech mine. "There is a reason that South Dakota prohibited Class 1 wells; it's to protect the aquifers."

Similar disputes are erupting across the country.

In Goliad County, Texas, a proposal for a new uranium mine has triggered a bitter fight between state officials and the EPA.

In 2010, Texas regulators gave a mining company preliminary permission to pollute a shallow aquifer even though 50 homes draw water from wells near the contamination zone.

EPA scientists were concerned by the mining area's proximity to homes and believed the natural flow of water would send contaminants toward the water wells. At first, the agency notified Texas officials it would deny an exemption for the mine unless the state did further monitoring and analysis.

Texas regulators refused. "It appears the EPA may be swayed by the unsubstantiated allegations and fears of uranium mining opponents," Zak Covar, executive director of the Texas Commission on Environmental Quality, wrote in a May 2012 letter to William Honker, acting director of the EPA's local Water Protection Division.

As the case dragged on without a final determination, some within the agency worried that the EPA would go back on its initial decision and capitulate to appease Texas authorities, with whom it has clashed repeatedly.

"This aquifer exemption issue in Goliad County might become a sacrificial lamb that the federal government puts on the altar to try to repair some relations with the state," said a former government official with knowledge of the case.

On Dec. 5, the EPA approved the exemption in Goliad County.

Many disputes over aquifer exemptions focus on water people might need years in the future, but in Goliad County the risk is imminent. People already rely on drinking water drawn from areas close to those that would be polluted.

"This is a health issue as much as a water supply issue," said Art Dohmann, president of the Goliad County Groundwater Conservation District, a local agency that manages water resources.

As of now, it's unclear how the EPA will answer Wyoming's challenge to its authority at Christensen Ranch.

Meanwhile, uranium mining has resumed on the property.

Uranium One, a Canadian-based company with majority Russian ownership that bought the facility from Cogema in 2010, is moving forward with the added injection wells to expand the operation.

For Christensen, it's the same old story. "I'm going to be dead before it's turned back into grazing land," he said of the ranch. "I'm almost 63 years old... so you know, it's gone on my whole life."